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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

KEVIN HAGAN,

Plaintiff,

v.

RAUL RECAREY, et al.,

Defendants.

1:22-cv-00562-AWI-EPG

ORDER RE: JOINT STIPULATION AS TO  
THIRD AMENDED COMPLAINT AND  
CASE DEADLINES

Judge: The Honorable Erica P.  
Grosjean

Action Filed: May 9, 2022

WHEREAS, on May 9, 2022, Plaintiff, initiated this lawsuit by filing a Complaint alleging Eighth Amendment violations against Defendants R. Recarey, L. Bird, and K. Allison (“Defendants”) (ECF No. 1);

WHEREAS, on May 11, 2022, the Court ordered the parties to attend a formal Scheduling Conference on September 13, 2022 (ECF No. 4);

WHEREAS, on May 16, 2022, Defendants filed their notice of intent to waive service (ECF No. 11);

1 WHEREAS, on June 13, 2022, the Court issued an Order re: Early Settlement Conference,  
2 requiring that the parties meet-and-confer about settlement and Defendants opt out of an early  
3 settlement conference, if necessary, by July 29, 2022;

4 WHEREAS, on July 14, 2022, the Court granted the parties' stipulation to modify deadlines  
5 to enable Plaintiff to file his First Amended Complaint (ECF No. 15);

6 WHEREAS, on September 20, 2022, Plaintiff filed his First Amended Complaint (ECF No.  
7 18);

8 WHEREAS, on September 26, 2022, Defendants requested that the Court screen the First  
9 Amended Complaint (ECF No. 20);

10 WHEREAS, on January 6, 2023, the Court screened the First Amended Complaint,  
11 dismissed Defendants, and provided Plaintiff the opportunity to file a Second Amended  
12 Complaint (ECF No. 21);

13 WHEREAS, on February 2, 2023, Plaintiff filed his Second Amended Complaint and a  
14 request for injunctive relief against Defendants H. Longia, J. Mevi, M. Son, and S. Gates (ECF  
15 No. 22)<sup>1</sup>;

16 WHEREAS, the parties have conferred and Plaintiff wishes to file a Third Amended  
17 Complaint, removing Defendant S. Gates and adding Defendant C. Eskander;

18 WHEREAS, the Court would have to screen the Third Amended Complaint, issue  
19 summons, find service appropriate, and direct e-service on the new defendants after the Third  
20 Amended Complaint is filed<sup>2</sup>;

21 WHEREAS, on February 28, 2023, the Court gave Plaintiff until May 23, 2023 to file the  
22 Third Amended Complaint (ECF No. 25);

23 WHEREAS, Plaintiff's Counsel is still waiting on a correspondence from Plaintiff that he  
24 needs to be able to file the Third Amended Complaint (Decl. of Benjamin Rudin ¶ 3);

25  
26 <sup>1</sup> The Attorney General's Office, specially appearing on behalf of S. Gates, opposed the  
27 request for injunctive relief. (See ECF No. 23.) The Second Amended Complaint is currently  
pending screening, but its screening will be mooted by the filing of a Third Amended Complaint.

28 <sup>2</sup> As they have before, Defendants will request that the Court screen the Third Amended  
Complaint pursuant to the Prison Litigation Reform Act. 28 U.S.C. § 1915A(a).

1 WHEREAS, Defendant C. Eskander is no longer Plaintiff's doctor. Plaintiff still wishes to  
2 add him along with his current doctor.

3 NOW, THEREFORE, the parties stipulate and agree to a two-week extension of the current  
4 schedule to allow Plaintiff's Counsel to receive the correspondence and file the Third Amended  
5 Complaint:

6 1. Plaintiff shall file his Third Amended Complaint on or before June 6, 2023;

7 2. Defendants shall request screening of the Third Amended Complaint within fourteen  
8 (14) days of its filing, and Defendants shall answer the Third Amended Complaint sixty (60) days  
9 after the new defendants' notice of intent to waive service;

10 3. The Scheduling Conference is continued to a date to be determined by the Court at a  
11 later time and by separate order;

12 4. The Parties' deadline to meet-and-confer regarding settlement and Defendants'  
13 deadline to opt out of an early settlement conference are continued to dates to be determined by  
14 the Court at a later time and by separate order.

15  
16 Dated: May 23, 2023

Respectfully submitted,

17 ROB BONTA  
18 Attorney General of California  
19 JOANNA B. HOOD  
Supervising Deputy Attorney General

20  
21 /s/ Neculai Grecea  
NECULAI GRECEA  
22 Deputy Attorney General  
Attorneys for Defendants  
23 R. Recarey, L. Bird, and K. Allison

24 /s/ Benjamin Rudin  
25 BENJAMIN RUDIN  
26 Attorney for Plaintiff  
27 Kevin Hagan  
28

**ORDER**

Based on the parties' stipulation (ECF No. 27), IT IS ORDERED that:

1. Plaintiff shall file his Third Amended Complaint on or by June 6, 2023;
2. Defendants shall request screening of the Third Amended Complaint within fourteen days of its filing and the Court will screen the Third Amended Complaint;
3. Defendants shall answer the Third Amended Complaint within sixty days after the new defendants are served and file their notice of intent to waive service;
4. The Court will issue a new Order Setting Mandatory Scheduling Conference; and
5. The Court will issue a new Order Regarding Early Settlement Conference.

IT IS SO ORDERED.

Dated: May 25, 2023

/s/ Eric P. Shoup  
UNITED STATES MAGISTRATE JUDGE